

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

ALEXANDER SETCHKO : CIVIL ACTION
:
v. :
:
TOWNSHIP OF LOWER SOUTHAMPTON, :
et al. : NO. 00-CV-3659

MEMORANDUM ORDER

J. M. KELLY, J.

September 12, 2001

Having agreed to proceed to arbitration, the above captioned matter has been scheduled for Arbitration on September 26, 2001. On June 19, 2001, the plaintiff, Alexander Setchko, was deported to Russia. On August 21, 2001, plaintiff counsel, Thomas S. Farnish, filed a Motion For Permission To Withdraw And For Continuance (Document No. 13). Oral Argument on this matter was heard on September 12, 2001.

In considering the motion to withdraw, district courts "must weigh all factors, including the saving of time and effort by the court, counsel, and the litigants, any hardship on either party, and the expedition of the case on the court's calendar." Clark v. Lutch, 77 F.R.D. 415, 418 (M.D. Pa. 1977). In Clark, the court stated that the "need for prompt adjudication of civil matters in the federal courts" outweighed the possibility of prejudice that the defendant may face in an on-going state criminal proceeding. Id. Additionally, district courts must consider whether granting the motion to withdraw will result in

prejudice to any of the litigants, with a particular emphasis on the extent to which the non-moving litigants are prejudiced.

Tutu Wells Contamination Litigation v. Texaco, Inc., 164 F.R.D. 41, 44 (D.V.I. 1995).

It is unlikely that the plaintiff, Alexander Setchko, will be allowed to return to the United States in the foreseeable future. Granting plaintiff counsel's motion in this case would indefinitely delay the resolution of this case. Hence, as in Clark, granting plaintiff counsel's motion would be prejudicial and unfair to the defendants who will be required to remain "under the threat of impending civil liability for an unjustifiable period of time." Clark, 77 F.R.D. at 418.

Furthermore, plaintiff is able to communicate with his counsel by facsimile from Russia. As such, plaintiff counsel has the ability to adequately represent the plaintiff's interests in the upcoming September 26, 2001 Federal Arbitration. The expeditious resolution of this civil matter will not result in prejudice to the plaintiff. Rather, granting plaintiff counsel's motion to withdraw could result in hardship and prejudice to the plaintiff, who is without adequate resources to employ new counsel at the present time.

Upon weighing the factors abovementioned, the Court hereby ORDERS that plaintiff counsel's Motion For Permission to Withdraw And For Continuance is DENIED.

BY THE COURT:

JAMES MCGIRR KELLY, J.